IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22248 of 2004

Between:

S.Satya Durga Dass, S/o.Kasi Viswanadham,
R/o.H.No.32-4-13/A, Kasturibaipet, Vijayawada-10.

..... PETITIONER

AND

1 M/s. Bharat Sanchar Nigam Ltd., (A Govt. of India Enterprise)
Incorporated under the Provisions of the companies Act, having its
Regd. Office at New Delhi, rep. by its Managing Director.
2 The Chief Engineer, Civil, Bharat Sanchar Nigam Ltd., Civil Zone,
Abids, Hyderabad.
3 The Superintendent Engineer, Bharat Sanchar Nigam Ltd.,
Chikadapalli, Hyderabad.
4 The Executive Engineer, Bharat Sanchar Nigam Ltd., Civil Division-I,
Barkatputa, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, or order or direction more particularly one in the nature of the writ of Mandamus declaring the action of the respondents in calling tender No.69(1)BSNL CDH-1/2004/937 dt.29-10-2004 in respect of the item No.1 before taking final measurements by the Advocate-Commissioner vide order dt.4-11-2004 of the III Additional Chief Judge, City Civil Court, Hyderabad in O.P.1943 of 2004 for Administrative Building awarded to the petitioner vide Agreement NO.49/CDH-I/2001-2002 by the respondents as illegal, arbitrary, unjust and unconstitutional and against the principles of natural justice and consequently direct the respondents not to award item No.1 of the tender No.69(1)BSNL CDH-I/2004/937 dt.29-10-2004 to any one till final measurements are taken by the Advocate-Commissioner in O P 1943 of 2004.

For the Petitioner: MR.RAVI KUMAR TOLETY, Advocate
For the Respondents: --

The Court at the admission stage made the following :

ORDER:

It is the case of the petitioner that he is the contractor for the fourth respondent to construct its Administrative Building as per the Agreement No.49/CDH-1/2001-2002 entered into between them, and during the course of the said work, certain disputes had arisen between them, and he stopped further construction. For settlement of his claim, the petitioner made a representation, dated 11-6-2004 requesting the respondents to take measurements for the work already executed by him, and since the respondents failed to do so, he filed arbitration O.P. No.1943 of 2004 on the file of III Additional Chief Judge, City Civil Court, Hyderabad, wherein an Advocate-Commissioner was appointed to take measurements of the constructed area. His grievances is that before taking measurements by the Advocate-commissioner, the respondents called for fresh tenders and are going ahead with awarding of contract work in question to others to defeat his rights. Seeking a direction to the respondents not to award the work in question to any one till measurements are taken by the Advocate-Commissioner, the petitioner filed the writ petition.

Heard the learned counsel for the petitioner.

Inasmuch as the petitioner has filed O.P. No.1943 of 2004 on the file of III Additional Chief Judge, City Civil Court, Hyderabad seeking assessment of the work executed by him in pursuance of the agreement in question, and an Advocate-commissioner was also appointed to take measurements of the work executed by him, and since the said O.P. is still pending, this writ petition cannot be maintained, and it is open for the petitioner to move appropriate application before the Civil Court.

Accordingly, the writ petition is dismissed at the stage of admission. No costs.

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N.V. RAMANA, J

Date: 03-12-2004

Svv

To

1 The Managing Director, M/s. Bharat Sanchar Nigam Ltd., (A Govt. of India Enterprise) Incorporated under the Provisions of the companies Act, having its Regd. Office at New Delhi.
2 The Chief Engineer, Civil, Bharat Sanchar Nigam Ltd., Civil Zone, Abids, Hyderabad.
3 The Superintendent Engineer, Bharat Sanchar Nigam Ltd., Chikadapalli, Hyderabad.
4 The Executive Engineer, Bharat Sanchar Nigam Ltd., Civil Division-I, Barkatputa, Hyderabad.

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